

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GARRY JONES,

Petitioner,

v.

Case No. 10-14476

JOHN DAVIDS,

Respondent.

/

**ORDER GRANTING PETITIONER'S MOTIONS TO LIFT STAY AND REOPEN CASE,
AMEND THE CASE CAPTION, AND SUPPLEMENT HIS HABEAS PETITION**

Garry Jones, a Michigan prisoner, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. His case was held in abeyance in 2016 to allow him to exhaust his claims in state court. (Dkt. #36.) Petitioner now moves to lift the stay and reopen the case, amend the case caption, and supplement his petition for writ of habeas corpus. (Dkt. #37–39.) For the reasons stated below, the court will grant these motions.

Petitioner was convicted of two counts of armed robbery, being a felon in possession of a weapon, and two counts of possession of a firearm during the commission of a felony, second offense, following a jury trial in the Wayne County Circuit Court. He was sentenced to concurrent terms of 20 to 35 years imprisonment on the robbery and felon in possession convictions and concurrent terms of 5 years imprisonment on the felony firearm convictions to be served consecutively to the other sentences in 2007. In his initial petition, Petitioner raised claims concerning his right to self-representation and the effectiveness of trial and appellate counsel. The court

granted Petitioner relief on his self-representation claim, but the United States Court of Appeals for the Sixth Circuit reversed that decision. The court then reopened this case for consideration of Petitioner's remaining, unaddressed claims. Petitioner thereafter moved to stay the proceedings so that he could return to the state courts and exhaust additional claims concerning the effectiveness of trial counsel and the conduct of the prosecutor. In 2016, the court granted that request and stayed and administratively closed the case to allow Petitioner to exhaust his state court remedies.

The matter is now before the court on Petitioner's motions to re-open this case and proceed on an amended petition with his supplemental claims (included with his motion). Since it appears that Petitioner has completed the state court process and substantially complied with the court's stay and abeyance order, the court will grant these motions. The court will further order that the caption in this case be amended to reflect that the proper respondent in this case is now John Davids, the warden of the prison where Petitioner is currently incarcerated. See *Edwards v. Johns*, 450 F. Supp. 2d 755, 757 (E.D. Mich. 2006); see also Rules Governing § 2254 Cases, Rule 2(a), 28 foll. U.S.C. § 2254. Accordingly,

IT IS ORDERED that Petitioner's motion to lift the stay and reopen the case (Dkt. #39) and motion to supplement his petition for writ of habeas corpus (Dkt. #38) are **GRANTED**. Respondent is **DIRECTED** to file an answer to the petition, as amended, and any additional, relevant state court record by **June 3, 2019**. Petitioner shall have until **July 19, 2019** to file any desired reply. The court makes no determination as to the procedural or substantive merits of the claims.

IT IS FURTHER ORDERED that Petitioner's motion to amend the case caption (Dkt. #37) is **GRANTED**. The caption of the case will be amended to reflect that the proper respondent in this case is John Davids.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 4, 2018

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 4, 2018, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(810) 292-6522

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